

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

FILED  
U.S. DISTRICT COURT  
WAYCROSS DIV.  
2009 MAY 13 AM 10:13

UNITED STATES OF AMERICA )  
 )  
v. )  
 )  
RONNIE LEE WILLIAMS, a/k/a )  
Too Death, )  
 )  
Defendant. )

CASE NO. CR597-003

CLERK *[Signature]*  
SO. DIST. OF GA.

O R D E R

Before the Court are Defendant Ronnie Lee William's Motion for Extension of Time to File Notice of Appeal (Doc. 1970) and Motion for Leave to Appeal In Forma Pauperis (Doc. 1969). After careful consideration, Defendant's Motion for Extension of Time is **GRANTED** and Defendant's Motion for Leave to Appeal In Forma Pauperis is **DENIED**.

In his Motion for Extension of Time, Defendant states that he did not receive a copy of this Court's Order denying his Motion for Reconsideration until April 22, 2009. In light of these circumstances, Defendant's Motion is **GRANTED**. Therefore, Defendant's May 4, 2009 Notice of Appeal of this Court's Order denying his Motion for Reconsideration is timely.<sup>1</sup>

<sup>1</sup> While Defendant's Notice of Appeal is timely with respect to this Court's denial of his Motion for Reconsideration (Doc. 1946), the Notice of Appeal is untimely with respect to the denial of his original Motion for Retroactive

Pursuant to 28 U.S.C. § 1915(a)(1), this Court may allow Defendant to proceed on appeal without prepayment of fees if he submits an affidavit that includes a statement of all his assets and shows that he is unable to pay such fees or give security therefor. However, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3); see Fed. R. App. P. 24(a)(3)(A).

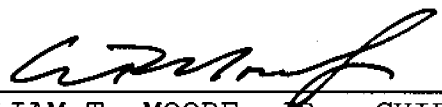
The Court denied Defendant's Motion for Retroactive Application of Sentencing Guidelines because under the 2007 Amendments Defendant's guideline range remained life imprisonment. (Doc. 1876.) Therefore, the 2007 Amendments to the Sentencing Guidelines do not provide for any reduction in Defendant's sentence. Based on the clear inapplicability of the 2007 Amendments to Defendant's

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Application of Sentencing Guidelines. (Doc. 1849.) This Court previously granted Defendant the maximum 30-day extension to file a Notice of Appeal from the earlier Order, which moved the deadline to September 3, 2008. (Doc. 1946.) However, on the last available day to file under the extension, Defendant filed a Motion for Reconsideration rather than a Notice of Appeal. While filing a Motion for Reconsideration "tolls the time for filing a notice of appeal," United States v. Vicaria, 963 F.2d 1412, 1413 (11th Cir. 1992) (citing United States v. Dieter, 429 U.S. 6, 8-9 (1976)), Defendant filed that Motion at the last possible moment, meaning there was basically no time left to toll. Defendant had, at most, one day to file his Notice of Appeal following this Court's denial of his Motion for Reconsideration. As a result, the time for Defendant to appeal the denial of his Motion for Retroactive Application has expired and cannot be extended.

sentence, the Court finds Defendant's appeal to be frivolous and not taken in good faith. Accordingly, the Court **DENIES** Defendant's Motion for Leave to Appeal In Forma Pauperis.

SO ORDERED this 13<sup>th</sup> day of May, 2009.

  
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WILLIAM T. MOORE, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA